

REMARKS

In the non-final Office Action claims 1-51 are pending and rejected, the drawings and the Abstract of the invention were objected to.

Herewith Applicants tender 12 sheets of replacement drawings and amend the Abstract.

Applicants aver that the claimed subject matter regarding “determining whether adequate ventricular fusion resulted” and the subject matter set forth at lines 8-22 of claim 1 are already depicted in the drawings and fully described in the specification.

Claims 37-51 are herewith canceled without disclaimer or prejudice as to the subject matter thereof, claims 1, 5, 19, and 23 are amended and no new claims are herewith added.

Claim Rejections under 35 U.S.C. §112

Claims 1-36 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the enablement requirement.

Applicants respectfully traverse the rejection.

That is, the application as filed is replete with descriptions and depictions of achieving adequate ventricular fusion; in addition, the documents incorporated by reference when reviewed by one of skill in the art certainly allow those of skill to practice the claimed invention.

Claim 49 stands rejected under 35 U.S.C. §112, second paragraph, for allegedly failing to comply with the enablement requirement.

Since claim 49 is herewith canceled, no substantive response is required to this ground of rejection.

Claim Rejections under 35 U.S.C. §101

Claims 5, 23, and 41 stand rejected as allegedly directed to non-statutory subject matter.

Applicants herewith amend the rejected claims as suggested by the Examiner, thereby obviating the grounds of rejection.

Claim Rejections under 35 U.S.C. §102

Claims 37-47 and 50-51 stand rejected as allegedly anticipated by the '096 patent to Hill (Hill).

Claims 37-40, 42, 43, 46, 47, and 50 stand rejected as allegedly anticipated by the '630 published application to Ding et al. (Ding).

Since the rejected claims are herewith canceled, no substantive response is required to these grounds of rejection.

Claim Rejections under 35 U.S.C. §103

Claims 48 and 49 stand rejected as allegedly unpatentable over Hill in view of the '308 patent to Sholder.

Claims 41 and 45 stand rejected as allegedly unpatentable over Ding in view of the '058 published application to Mower.

Claims 42 and 44 stand rejected as allegedly unpatentable over Ding in view of the '427 patent to Alt et al. (Alt).

Claims 48 and 49 stand rejected as allegedly unpatentable over Ding in view of Sholder.

Since the rejected claims are herewith canceled, no substantive response is required to these grounds of rejection.

Double Patenting Rejections

Claims 37-47 and 50-51 are rejected as allegedly unpatentable over claims 22-27 of the '096 patent to Hill (Hill).

Claims 48-49 are rejected as allegedly unpatentable over claims 22-27 of Hill in view of Sholder.

Claims 37-51 are rejected as allegedly unpatentable over claims 1-51 of co-pending application serial number 10/803,570.

Since the rejected claims are herewith canceled, no substantive response is required to these grounds of rejection.

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Thus, Applicants respectfully assert that the presently pending claims are now in condition for allowance. Of course, the Examiner is invited to contact the undersigned to attend to any matter relating to the instant application. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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Date

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